

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

JUAN FELIPE MELENDEZ,
Plaintiff.

v.

ERIC ARNOLD,
Defendant.

Case No. [15-cv-03753-KAW](#)

**ORDER TO SHOW CAUSE; ORDER
CONTINUING HEARING ON
PLAINTIFF'S MOTION TO STAY TO
DECEMBER 3, 2015**

Re: Dkt. Nos. 1 & 4

Petitioner Juan Felipe Melendez, a state prisoner incarcerated at Solano State Prison, filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254, in which he challenges his state criminal conviction. Petitioner has consented to the jurisdiction of the undersigned United States Magistrate Judge over this action.

It does not appear from the face of the petition that it is without merit, as one or more claims are exhausted. Good cause appearing, the Court hereby issues the following orders:

1. The Clerk of the Court shall serve a copy of this Order and the petition and all attachments thereto upon Respondent and Respondent's attorney, the Attorney General of the State of California.

2. No later than sixty days from the date of this Order, Respondent shall file with this Court and serve upon Petitioner an Answer conforming in all respects to Rule 5 of the Rules Governing Section 2254 Cases, showing cause why a writ of habeas corpus should not be issued. Respondent shall file with the Answer all portions of the state record that have been transcribed previously and are relevant to a determination of the issues presented by the petition. If Petitioner wishes to respond to the Answer, he shall do so by filing a Traverse with the Court and serving it on Respondent within thirty days of his receipt of the Answer. If he does not do so, the petition

1 will be deemed submitted and ready for decision on the date the Traverse is due.

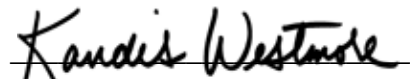
2 3. No later than sixty days from the date of this Order, Respondent may file with this Court
3 and serve upon Petitioner a motion to dismiss on procedural grounds in lieu of an Answer, as set
4 forth in the Advisory Committee Notes to Rule 4 of the Rules Governing Section 2254 Cases. If
5 Respondent files such a motion, Petitioner shall file with the Court and serve on Respondent an
6 opposition or statement of non-opposition to the motion within thirty days of receipt of the
7 motion, and Respondent shall file with the Court and serve on Petitioner a reply within fourteen
8 days of receipt of an opposition.

9 4. Respondent shall file his Consent or Declination to Magistrate Judge Jurisdiction within
10 twenty-eight days from the date of this Order. The Clerk shall mail to Respondent the necessary
11 form to indicate his consent or declination. This form can also be found at
12 www.cand.uscourts.gov/civilforms.

13 5. Generally, extensions of time are not favored, though reasonable extensions will be
14 granted. In light of the pending state court action seeking informal briefing regarding Claim #1,
15 the Court continues the hearing on Plaintiff's motion to stay (Dkt. No. 4) **to December 3, 2015**.
16 Any motion or stipulation for an extension of time must be filed no later than ten days prior to the
17 deadline sought to be extended.

18 IT IS SO ORDERED.

19 Dated: September 18, 2015

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21 KANDIS A. WESTMORE
22 United States Magistrate Judge
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